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9 Attorneys for Plaintiff

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 ROYAL PRINTEX, INC., a California
13 Corporation,

14 Plaintiff,

15 v.

16 PACIFIC SUNWEAR OF
17 CALIFORNIA, INC., a California
18 Corporation; and DOES 1-10 inclusive,
19 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

20
21 Plaintiff ROYAL PRINTEX, INC. (hereinafter "ROYAL"), by and through its
22 undersigned attorneys, hereby prays to this honorable Court for relief based on the
23 following:

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1 **JURISDICTION AND VENUE**

2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
7 1400(a) in that this is the judicial district in which a substantial part of the acts and
8 omissions giving rise to the claims occurred.

9 **PARTIES**

10 4. Plaintiff, ROYAL, is a corporation organized and existing under the laws of
11 the State of California with its principal place of business located at 1946 E 46th St,
12 Vernon, California 90058.

13 5. Plaintiff is informed and believes and thereon alleges that Defendant
14 PACIFIC SUNWEAR OF CALIFORNIA, INC. (“PAC SUN”) is a corporation
15 organized and existing under the laws of the State of California with its principal
16 place of business located at 3450 E. Miraloma Avenue, Anaheim, California 92806.

17 6. Plaintiff is informed and believes and thereon alleges that Defendant DOES
18 1-5, inclusive, are manufacturers and/or a vendors (and/or agent or employee to a
19 manufacturer or vendor) of garments to Defendant, which DOE Defendants have
20 manufactured and/or supplied and are manufacturing and/or supplying fabrics and
21 other product printed with Plaintiff’s copyrighted design (as hereinafter defined)
22 without Plaintiff’s knowledge or consent or have contributed to said infringement.

23 7. Defendants DOES 6 through 10, inclusive, are other parties not yet
24 identified who have infringed Plaintiff’s copyrights, have contributed to the
25 infringement of Plaintiff’s copyrights, or have engaged in one or more of the
26 wrongful practices alleged herein. The true names, whether corporate, individual or
27 otherwise, of Defendants DOES 1 through 10, inclusive, are presently unknown to
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1 Plaintiff, which therefore sues said Defendants by such fictitious names, and will
2 seek leave to amend this Complaint to show their true names and capacities when
3 same have been ascertained.

4 8. Plaintiff is informed and believes and thereon alleges that at all times
5 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
6 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
7 at all times acting within the scope of such agency, affiliation, alter-ego relationship
8 and/or employment; and actively participated in or subsequently ratified and adopted,
9 or both, each and all of the acts or conduct alleged, with full knowledge of all the
10 facts and circumstances, including, but not limited to, full knowledge of each and
11 every violation of Plaintiff's rights and the damages to Plaintiff proximately caused
12 thereby.

13 **CLAIMS RELATED TO R-21637**

14 9. Prior to the conduct complained of herein, Plaintiff composed an original
15 two-dimensional artwork for purposes of textile printing. It allocated this design
16 Plaintiff's Internal Design R-21637 (the "Subject Design"). This artwork was a
17 creation of Plaintiff and/or Plaintiff's design team, and is, and at all relevant times
18 was, owned in exclusively by Plaintiff.

19 10. Plaintiff has applied for a United States Copyright Registration for the
20 Subject Design. A true and correct image of the Subject Design is presented below:

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11. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing the Subject Design to numerous parties in the fashion and apparel industries.

12. Following this distribution of product bearing the Subject Design, Plaintiff is informed and believes that certain entities within the fashion and apparel industries had misappropriated the Subject Design, and were selling fabric and garments bearing illegal reproductions and derivations of the Subject Design.

13. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization, PAC SUN, and certain DOE defendants created, sold, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garments comprised of fabric featuring designs which are substantially similar to the Subject Design (hereinafter "Subject Product"). Said garments include but are not limited to the following:

- a. PAC SUN garments sold under Style No. D1576. Such Subject Product also bore the "LA: HEARTS" label and RN No. 90233, indicating said garments were manufactured by and/or were supplied

by PAC SUN. See below for an image of one such Subject Product with receipt and tags:



14. A comparison of the Subject Design and the Subject Product makes clear that the elements, composition, colors, arrangement, layout, and appearance of the design are substantially similar.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants)

15. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and

1 printing mills; (c) access to legitimate ROYAL's fabric in the marketplace; and (d)
2 access to Plaintiff's strike-offs and samples.

3 17. Plaintiff is informed and believes and thereon alleges that one or more of
4 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
5 further informed and believes and thereon alleges that said Defendant(s) have an
6 ongoing business relationship with the retailer Defendants, and each of them, and
7 supplied garments to said retailers, which garments infringed the Subject Design in
8 that said garments were composed of fabric which featured an unauthorized print
9 design that was identical or substantially similar to the Subject Design.

10 18. Plaintiff is informed and believes and thereon alleges that Defendants,
11 and each of them, infringed Plaintiff's copyright by creating, making and/or
12 developing directly infringing and/or derivative works from the Subject Design and
13 by producing, distributing and/or selling fabric and/or garments which infringe the
14 Subject Design through a nationwide network of retail stores and on-line outlets.

15 19. Due to Defendants' acts of infringement, Plaintiff has suffered
16 substantial damages to its business in an amount to be established at trial.

17 20. Due to Defendants' acts of infringement, Plaintiff has suffered general
18 and special damages in an amount to be established at trial.

19 21. Due to Defendants' acts of copyright infringement as alleged herein,
20 Defendants, and each of them, have obtained direct and indirect profits they would
21 not otherwise have realized but for their infringement of the Subject Design. As such,
22 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly
23 attributable to Defendants' infringement of the Subject Design in an amount to be
24 established at trial.

25 22. Plaintiff is informed and believes and thereon alleges that the
26 infringement of ROYAL's copyrighted design was willful, reckless, and/or in blatant
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1 disregard for ROYAL's rights as a copyright holder, and as such, claims willful,
2 exemplary and enhanced statutory damages.

3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement - Against All
5 Defendants)

6 23. Plaintiff repeats, realleges and incorporates herein by reference as
7 though fully set forth the allegations contained in the preceding paragraphs of this
8 Complaint.

9 24. Plaintiff is informed and believes and thereon alleges that Defendants
10 knowingly induced, participated in, aided and abetted in and profited from the illegal
11 reproduction and/or subsequent sales of product featuring the Subject Design as
12 alleged hereinabove.

13 25. Plaintiff is informed and believes and thereon alleges that Defendants,
14 and each of them, are vicariously liable for the infringement alleged herein because
15 they had the right and ability to supervise the infringing conduct and because they
16 had a direct financial interest in the infringing conduct.

17 26. By reason of the Defendants', and each of their, acts of contributory and
18 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
19 suffer substantial damages to its business in an amount to be established at trial, as
20 well as additional general and special damages in an amount to be established at trial.

21 27. Due to Defendants' acts of copyright infringement as alleged herein,
22 Defendants, and each of them, have obtained direct and indirect profits they would
23 not otherwise have realized but for their infringement of the Subject Design. As such,
24 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly
25 attributable to Defendants' infringement of the Subject Design, in an amount to be
26 established at trial.

1 Court deems proper.

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3 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
4 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.
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6 Respectfully submitted,
7 DONIGER / BURROUGHS
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9 Date: April 4, 2014

By: /s/ Scott A. Burroughs
10 Scott A. Burroughs
11 Trevor W. Barrett
12 Attorneys for Plaintiff
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